



Economic Impact Analysis Virginia Department of Planning and Budget

11 VAC 15-31 – Supplier Regulations

Department of Charitable Gaming

March 4, 2005

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

§18.2-340.15 of the Code of Virginia provides the Charitable Gaming Board (board) with the power to prescribe regulations and conditions under which gaming is conducted such that it is conducted in a manner consistent with the purpose for which it is permitted. It also vests the Department of Charitable Gaming (DCG) with control of all charitable gaming in the Commonwealth. Chapter 884 of the 2004 Acts of Assembly required that the board examine existing charitable gaming regulations and provide a report to the Governor and the 2004 Session of the General Assembly. The report was required to include the board's plan regarding any regulatory action and the anticipated timetable for such action. The report, which was submitted on December 2, 2003, concurred that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Rules and Regulations was needed.

The proposed regulation (1) imposes additional testing requirements on manufacturers of pull tab and instant bingo machines, (2) prohibits suppliers, supplier agents, and employees of

the supplier from participating in gaming conducted by the supplier's customers, (3) reduces the maximum number of card faces that can be played per game on an electronic bingo machine from 72 to 54, and (4) includes a number of changes intended to improve enforcement and implementation of the regulation. In addition, the proposed regulation modifies some of the requirements relating to the manufacture of electronic bingo devices, eliminates the provision allowing for the issuance of provisional supplier certificates, establishes requirements for Lucky Seven, a new variation of bingo, and changes the fiscal year for reporting purposes from October 1 through September 30 to the calendar year.

The proposed regulation also adds new definitions, deletes unnecessary definitions, and modifies existing ones. According to DCG, these changes are not likely to significantly alter current practice. The proposed regulation also includes a number of changes that make the regulation consistent with current practice and technology. Other changes make the regulation consistent with federal requirements and with the Code of Virginia. Finally, the proposed regulation also includes a number of other changes that clarify aspects of the regulation, remove redundant language, and make it more streamlined.

Estimated Economic Impact

(1) The proposed regulation imposes additional testing requirements on manufacturers of pull tab and instant bingo machines. Manufacturers will be required to have a sample machine tested and approved by a testing facility recognized by DCG prior to supplying any new machines for use in charitable gaming. The cost of the additional testing is to be met by the manufacturer.

The proposed change is likely to produce costs and benefits. DCG estimates that the cost of meeting the additional testing requirement is approximately \$2,000. However, the agency believes that most new machines being introduced in Virginia are likely to have already been tested for use in other states.¹ In instances when this is not the case, DCG believes that the additional costs are not likely to be very burdensome as manufacturers stand to make millions of dollars through use of these machines. The proposed requirement is consistent with national standards recently adopted by the Electronic Bingo Manufacturers Association. Reliable estimates of the number of new pull tab and instant bingo machines introduced in Virginia each

¹ According to DCG, the charitable gaming market in Virginia is meager compared to some other states.

year and of the fraction of these machines that would require additional testing are not available. The benefits of the proposed change accrue from better enforcement of rules and regulations and laws relating to the conduct of charitable gaming in Virginia. Additional testing will ensure that pull tab and instant bingo machines are in compliance with all requirements and that charitable gaming in Virginia is conducted in a manner such that the risk of fraud and theft to the public is reduced to the minimum level possible. Manufacturers are also likely to benefit from eliminating any appearance of impropriety in the manufacture and sale of these machines. An estimate of the benefits associated with the proposed change is not possible at this time. Such a calculation would require an estimation of the reduction in risk of fraud or improper conduct in the use of pull tab and instant bingo machines from implementing the proposed change. As neither the costs nor the benefits can be reliably estimated, a precise estimate of the net economic impact of the proposed change is also not possible at this time.

(2) The proposed regulation prohibits suppliers, supplier agents, and employees of the supplier from participating in gaming conducted by the supplier's customers. Under the existing regulation, suppliers, supplier agents, and employees are only prohibited from being involved in the management, operation, and conduct of charitable gaming conducted by the supplier's customers. The proposed regulation will also prohibit them from participating in charitable gaming conducted by customers.

According to DCG, there have been problems in the past with regard to the participation of suppliers in charitable gaming conducted by a supplier's customer. The agency has received a number of complaints regarding this issue from other individuals participating in the game. Involvement of the supplier, the supplier's agent, or employees lead some of the other participants to call into question the integrity of the game, i.e., the potential for cheating. The proposed change is intended to address such complaints and remove any appearance of impropriety associated with supplier participation in these games. To the extent that the proposed change reduces the risk of fraud and impropriety in the conduct of charitable gaming, it is likely to produce some economic benefits. The net economic impact will depend on whether these benefits are greater than or less than the economic cost associated with the restriction on participation. The economic costs include the loss of welfare to suppliers from not being able to participate in charitable gaming to the extent that they are currently allowed and the impact of the participation restriction on charitable gaming revenues. While precise estimates of the costs

and the benefits are not possible at this time, neither is likely to be very large. Thus, the overall economic impact of the proposed change is not likely to be very large.

(3) The proposed regulation reduces the maximum number of card faces that can be played per game on an electronic bingo machine from 72 to 54. Reducing the maximum number of card faces, in turn, reduces the chances of an individual winning and receiving a payout. According to DCG, the proposed change is intended to level the playing field between paper and electronic players. A good paper player can play up to 36 card faces simultaneously. By being able to play a larger number of card faces during a game, electronic bingo players have a higher probability of winning. However, reducing the maximum number of card faces from 72 to 54 is not likely to achieve much by way of leveling the playing field. Electronic bingo players are likely to continue to have an advantage over paper players. At the same time, reducing the likelihood of a payout using for electronic bingo players could discourage people from playing and, consequently, have a negative impact on charitable gaming proceeds. Organizations currently using and manufacturers currently supplying machines with a maximum 72 card faces will incur additional costs associated with replacing or modifying their equipment to comply with the proposed change.

However, any negative economic impact is likely to be small. According to DCG, a maximum of 54 card faces is the national standard. The agency estimates that less than 2% of charitable gaming organizations will be affected by the proposed change. Moreover, according to the agency, the cost to suppliers of making the change is likely to be minimal. Regulation requires that the games be loaded onto the computers onsite, usually just before the game begins. The proposed change will simply require 54 instead of 72 games being loaded. Given the limited number of organizations offering games with 72 card faces, the costs associated with the proposed change, both in terms of discouraging people from playing and having to replace or modify equipment, is likely to be small.

(4) The proposed regulation includes a number of changes that are intended to improve enforcement and implementation of the regulation. Some of these changes include more extensive recordkeeping and reporting requirements, including maintaining and reporting additional sales information and obtaining written statements from buyers who are not permitted or authorized to conduct charitable gaming activities that they do not intend to use the supplies for purposes of charitable gaming or unlawful gambling and keeping it on record for three years.

In addition, suppliers are required to be authorized to conduct business in Virginia². They are also required to notify DCG within 20 days in the event of any legal or administrative action against them relating to charitable gaming or the distribution of charitable gaming supplies and to ensure that serial numbers on disposable bingo papers are not repeated for three years.³ However, not all the proposed changes are likely to impose additional costs. Many, such as online reporting and additional flexibility in the payment for gaming supplies, are intended to streamline the process and make it less burdensome.

DCG believes that any increase in costs is likely to be counterbalanced by changes that streamline the process and make it more efficient. Neither the costs nor the benefits of the proposed change appear to be very large. Thus, the overall economic impact of the proposed changes is not likely to be very large.

The proposed regulation makes a number of other changes. However, these changes are not likely to have significant economic impact.

- The proposed regulation modifies some requirements relating to the manufacture of electronic bingo devices. However, these modifications are not likely to have a significant economic impact as they are consistent with the criteria that the industry has set for itself. In fact, the Electronic Bingo Manufacturers Association recommended the modifications.
- The proposed regulation eliminates the provision allowing for the issuance of provisional supplier certificates. The existing regulation allows for the issuance of provisional certificates valid for up to 180 days pending completion of the background investigation. However, no need has been felt for provisional certificates and none have been issued since 2002.
- The proposed regulation establishes requirements for Lucky Seven, a new variation of bingo. However, Lucky Seven games are currently being played in Virginia and the requirements established in the regulation are not expected to alter current practice.
- The proposed regulation changes the fiscal year for reporting purposes from October 1 through September 30 to the calendar year, i.e., January 1 through December 31. The change is intended to make the reporting process consistent with the state's budgeting process.

² Authorization can include registration with the State Corporation Commission, the Department of Taxation, and/or the Virginia Employment Commission.

³ The current requirement is for them not to be repeated for one year.

According to DCG, currently budget projections of revenues from charitable gaming are based on just three months of actual data (July through October). After the proposed change, six months of actual data (July through December) will be available to the agency when making these projections. Moreover, the agency believes that consistency between the reporting period for charitable gaming and the reporting period for tax purposes will reduce confusion among the regulated community and streamline the entire process. To the extent the proposed change achieves these objectives, it is likely to produce some small economic benefits.

Businesses and Entities Affected

The proposed regulation affects certified charitable gaming suppliers. According to DCG, there currently are 22 charitable gaming suppliers operating in Virginia.

Localities Particularly Affected

The proposed regulation applies to all localities in the Commonwealth.

Projected Impact on Employment

The proposed regulation is not likely to have a significant impact on employment in Virginia.

Effects on the Use and Value of Private Property

The net impact of the proposed changes on the use and value of private property is not clear. For example, manufacturers of pull tab and instant bingo machines may have to undertake additional testing of their machines. This is likely to increase operating costs and reduce asset values. However, the additional testing is likely to remove any appearance of impropriety and increase the confidence of the public in these machines. This, in turn, could increase revenues for suppliers and have a positive impact on their asset values. The net effect of the proposed regulation will depend on the relative magnitude of the costs and the benefits associated with each of the proposed changes. While a precise determination of the magnitudes and, hence of the net effect, is not possible at this time, the overall impact of the proposed regulation on the use and value of private property is not likely to be very large.